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Date: October 6, 2004

To: Examiner Daniel J. Davis Art Unit: 3731
USPTO

Facsimile: 703-872-9306 **Telephone:**

From: Streets & Steele **Our Deposit Account Log No.:** 1018
Debi Labay **Our Ref:** CARA/0013

Pages: 9 (with cover)

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Debi Labay
Signature

Attached please find the following documents for the above referenced patent application:

- 1) Resubmittal of Comments on Statement of Reasons for Allowance [2 pages]; and
- 2) Copies of previous submission via facsimile of Comments on Statement of Reasons for Allowance with fax cover sheet and confirmation sheets [6 pages].

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OCT 06 2004

Patent
Atty. Dkt. No. CARA/0013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:
Cesar C. Carriazo

SERIAL NO. 10/002,639

FILED: October 24, 2001

FOR: Aspherical Positioning Ring

§ CONFIRMATION NO.: 1980
§
§
§ EXAMINER: Daniel J. Davis
§
§
§ GROUP ART UNIT: 3731
§
§ VIA FACSIMILE: 703-872-9306Commissioner for Patents
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Sir:

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RESUBMISSION OF COMMENTS ON
STATEMENT OF REASONS FOR ALLOWANCE

The following documents were submitted directly to you via your facsimile number 703-872-9306 on July 13, 2004:

1. Fax cover sheet; and
2. copy of the Comments on Statement of Reasons for Allowance.

The PAIR system contains no acknowledgement that such documents were received. Additionally, recent telephone calls to the USPTO have failed to confirm that such documents were received. In the interest of ensuring that the Applicant's Comments on Statement of Reasons for Allowance are properly considered and entered in the record, these documents are hereby being resubmitted via facsimile and accompany this cover letter.

The undersigned hereby attests on a personal knowledge basis that a response to the Notice of Allowance with the above described enclosures was timely filed via facsimile. A copy

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Atty. Dkt. No. CARA/0013

of the fax confirmations indicating transmission and receipt (i.e., auto-reply from the USPTO) of the facsimile transmittal of July 13, 2004, is also being transmitted herewith.

In the event that this resubmission is not considered proper or timely, the Examiner is respectfully requested to contact the undersigned attorney for the Applicant at the telephone number indicated below.

In the event that any fees are incurred by this resubmission, the Commissioner is hereby authorized to charge Deposit Account No. 50-0714/CARA/0013 for such fees.

Respectfully submitted,



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Date: July 13, 2004

To: Examiner Daniel J. Davis Art Unit: 3731
USPTO

Facsimile: 703-872-9306

From: Streets & Steele Our Deposit Account Log No.: 0713
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Attached please find the following documents for the above referenced patent
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- 1) Comments on Statement of Reasons for Allowance.

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Patent
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Cesar C. Carriazo

SERIAL NO. 10/002,639

FILED: October 24, 2001

FOR: Aspherical Positioning Ring

§ EXAMINER: Daniel J. Davis

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GROUP ART UNIT: 3731

CONFIRMATION NO. 1980

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Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

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COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Applicant files this response to the Notice of Allowability dated June 30, 2004, in order to have its comments on the Examiner's statement of reasons for allowance entered into the record. In particular, the Applicant respectfully traverses the Examiner's stated conclusion that: "the only illustrated embodiment disclosed by applicant as having both 'an aspherical inferior engaging surface and an aspherical superior engaging surface' is the embodiment of Figs. 8A-1 and 8A-2." *Notice of Allowability, para. 2*. This conclusion was apparently reached because the Examiner has reasoned that "a curved bevel" surface of some presumed width is required by the term "aspherical" as applied in the claims. *Id.*

The Applicant respectfully submits that the Examiner has misconstrued the term

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"aspherical." Instead of being limited to a curved bevel surface of some presumed width, the phrases "aspherical inferior engaging surface" and "aspherical superior engaging surface" are intended to read on an infinite number of surfaces that lie on an "aspherical" shape. Such surfaces need not be planar, or exhibit any particular widths, and may in fact be substantially linear as shown in the various edge-like surfaces of certain of the drawings. Thus, the allowed claims are submitted to cover the other disclosed embodiments (Figures 8B, 8C, and 8D) of the present specification. Particular reference is made to the following passages from the specification (with emphasis added):

Figure 8A shows the preferred embodiment of the invention providing a superior engaging surface 103 having a non-circular plane section (e.g., ovoid, elliptical, oval) for gripping the corneal region having a similar non-circular plane section. ... By beveling the inner wall of a suction ring having a circular outer wall ...
(Page 10, lines 12-17.)

Alternatively, as shown in Figure 8B, the superior engaging surface 103 of the suction ring could be formed in a non-circular shape, having an equal suction ring thickness around the circumference of the superior engaging surface, i.e., not beveled, while still providing a close fit between the superior engaging surface and the astigmatic corneal region.
(Page 11, lines 12-16.)

It is therefore clear that the claimed "engaging surface(s)" of the present invention are intended to cover surfaces resulting from "non-circular plane sections" (e.g., beveled inner walls) as well as "non-circular shapes" (e.g., non-beveled, edge-shaped inner walls). In fact, even Figure 8A-2 shows the aspherical inferior and superior engaging surfaces 101, 103 as being non-beveled edges in the section illustrated by that figure. More particularly, Figures 8C-1 and 8C-2 show an embodiment wherein neither of the aspherical engaging surfaces employs a beveled, or non-circular plane section,

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but nevertheless are aspherical in shape (see, e.g., differing imaginary radius curves in the two sections depicted by the figures).

In summary, the Applicant submits that the scope of the allowed claims properly extends to encompass each of the embodiments of Figures 8A-8D, as well as other embodiments (disclosed and undisclosed) that employ aspherical engaging surfaces in the sense claimed. The Examiner is therefore invited to reconsider his statement for reasons of allowance.

Respectfully submitted,



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